

Remarks

Claims 1,2, 8, 9, and 22 stand rejected under 35 U.S.C. 102(b) as anticipated by Planz U.S. patent No. 3,893,500. Claim 6 stands rejected under 35 USC 103(a) as unpatentable over Planz in view of Douglas et al. U.S. patent 3,845,875. Claims 10-20 have been allowed. Claims 5 and 7 have been canceled. Claims 3, 4, and 21 would be allowable in independent form or as dependant from an allowable claim.

The outstanding Office Action stated that it was non-final in the Office Action Summary but final in later text. The action is designated as non-final in Public PAIR. Applicant will assume that it is non-final.

The outstanding Office Action included a markup of Figs. 1-3 of Planz which was helpful in understanding the rejections. Consequently, some of the remarks in the Amendment filed July 20, 2005 no longer apply. The present Amendment will address the new points raised in the outstanding Office Action, without re-stating the summary of Applicant's invention or the remarks of the July 20, 2005 that still apply.

The following table compares Applicant's structure with Planz's structure.

Applicant's Structure	Planz's Structure
base 112	base 12
exterior, rear wall 114	inclined members 28, 30
exterior, side walls 116	upstanding lateral edges 14, 16
vehicle supports 122b, 122c, 124, 126	main members 18, 20
transverse channels 132, 134, 136	pockets 32, 22, 34
longitudinal channels 138	inward of edges 14, 16
chain well 142	in pockets 32, 34
compartment 144	see Note A below
upwardly facing interior wall 140	see Note B below

Note A. The Examiner's position is that a horizontal bore through exterior wall 114 is "an upwardly facing compartment".

Note B. The Examiner's position is that the above-mentioned bore creates, between the bore itself and the surface of exterior wall 114 adjacent chain well 142, an "interior wall".

Regarding Note A to the table, Applicant disagrees with the Examiner's position for the following reasons:

- a. The bore is not "upwardly facing", or even exposed in any way in the upward direction.
- b. The bore is not a "compartment", because the bore merely holds U-shaped rod 40-42-44-46 in a fixed, permanent position, with only enough clearance to allow it to rotate. The word "compartment" is not sufficiently broad to generally include bearing surfaces for fixed, rotating shafts. A dictionary definition of "compartment" is enclosed. The definition cannot apply unless there is some aspect of storage or division of space. The ordinary meaning of the term "upwardly facing compartment" is clear; see, for example in Cushman U.S. patent 5,544,614, an excerpt of which is enclosed (Figs. 11 and 12, and col. 5, lines 23-28). On the other hand, it is unlikely that there is even a single example of bearing surfaces for a rotating shaft ever being called a "compartment". Also, "upwardly facing compartment" is clear in its context in the claims -- that the compartment receives and protects a U-shaped tool which may be "picked up, removed from the tray, and drawn circumferentially around the stationary tire".
- c. The term "tool" is not used in the mechanical arts broadly to mean anything that performs a function or a component of a device (other than, according to the dictionary, a component of a device such as a lathe which itself is called a "tool"). Such usage would make a statement non-informative or meaningless. A dictionary definition of "tool" is enclosed.

- d. If one skilled in the mechanical arts is handed the Planz patent and the Planz device and asked whether a “compartment for receiving an installation tool” is present, it is highly unlikely that he would say “yes” and identify the bore through exterior wall 114.

Regarding Note B to the table, Applicant disagrees with the Examiner’s position for the following reasons:

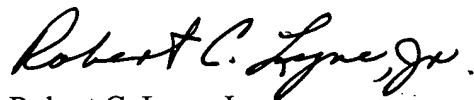
- e. Exterior wall 114 is already recited in claim 1. The additional recital of “an interior wall” presents an additional element in the claim, not an element which is the same as or included within the exterior wall.
- f. It is not reasonable to say that drilling a bore through a wall creates two additional walls -- one wall to the left of the bore and another wall to the right of the bore. There is still only one wall.
- g. The terms “exterior walls” and “interior walls” in the present application is generally in accordance with the nomenclature of the walls of a house or similar structure. The use of the terms in the rejection does not appear to follow any pattern.

In summary, the prior art simply does not have the structure required by the claims. The anticipation rejections under 35 USC 102(b) are unsound, or at best strained far beyond their breaking point, for each of six different reasons (innumrated as b. through g. above). The rejection fails if any one of the six reasons is valid. Moreover, it is impossible to even assert that the “upwardly facing” claim limitation (reason a. above) is met. There is nothing to strain. Claims limitations cannot be ignored, particularly in an anticipation rejection.

The foregoing applies to the claims before the amendments submitted herewith. These amendments even further distinguish the claims from Planz. Present claim 1 now recites that that the compartment “allows the tool to be grasped and pulled upward to remove it from the tray”, which is structurally and functionally related to the “upwardly facing” recital. The amendments in the first paragraph of claim 1 are intended merely to make the claim appear more complete when read in isolation from the remainder of the application.

This application is believed to be in condition for allowance, which action is respectfully requested.

Respectfully submitted,



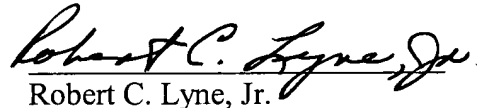
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compartment

SYLLABICATION: com part ment

PRONUNCIATION:  kəm-pärt'mənt

NOUN: 1. One of the parts or spaces into which an area is subdivided. 2. A separate room, section, or chamber: *a storage compartment*.

TRANSITIVE VERB: Inflected forms: **com part ment ed**, **com part ment ing**, **com part ments**
To compartmentalize: "*The information has not been compartmented*" (John H. Cushman, Jr.).

OTHER FORMS: **com'part ment'al** (kəm'pärt-mě'n'tl) —ADJECTIVE

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tool

PRONUNCIATION:  tooł

NOUN: 1. A device, such as a saw, used to perform or facilitate manual or mechanical work. **2a.** A machine, such as a lathe, used to cut and shape machine parts or other objects. **b.** The cutting part of such a machine. **3.** Something regarded as necessary to the carrying out of one's occupation or profession: *Words are the tools of our trade.* **4.** Something used in the performance of an operation; an instrument: *"Modern democracies have the fiscal and monetary tools . . . to end chronic slumps and galloping inflations"* (Paul A. Samuelson). **5. Vulgar Slang** A penis. **6.** A person used to carry out the designs of another; a dupe. **7a.** A bookbinder's hand stamp. **b.** A design impressed on a book cover by such a stamp. **8. Computer Science** An application program, often one that creates, manipulates, modifies, or analyzes other programs.

VERB: Inflected forms: **tooled, tool ing, tools**

TRANSITIVE VERB: 1. To form, work, or decorate with a tool. 2. To ornament (a book cover) with a bookbinder's tool. 3. *Slang* To drive (a vehicle): *tooled the car at 80 miles an hour.*

INTRANSITIVE VERB: 1. To work with a tool. 2. *Slang* To drive or ride in a vehicle: *tooled up and down the roads.*

PHRASAL VERB: **tool up** To provide an industry or a factory with machinery and tools suitable for a particular job.

ETYMOLOGY: Middle English, from Old English *tōl*, possibly from Old Norse.

SYNONYMS: *tool, instrument, implement, utensil, appliance* These nouns refer to devices used in the performance of work. *Tool* applies broadly to a device that facilitates work; specifically it denotes a small manually operated device: *a box full of tools for bike repair.* *Instrument* refers especially to a relatively small precision tool used by trained professionals: *sterilized the scalpel and the other instruments.*

Implement is the preferred term for tools used in agriculture and certain building trades: *rakes, hoes, and other implements*. *Utensil* often refers to an implement used in a household, especially in the kitchen: *cooking utensils hung by the stove*. *Appliance* most frequently denotes a power-driven device that performs a specific function: *a store selling toasters and other appliances*.

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